

05-22-01



Docket No. TRE-1

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JC978 U.S. PTO
09/863659



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Avi Treves and Vivian Barak

Serial No: 08/779,189

Group Art Unit: 1652

Filing Date: January 6, 1997

Examiner: Hobbs, L.

For: Cytostatic Factor

TRANSMITTAL OF FILING UNDER 37 CFR § 1.53(b)

Assistant Commissioner for Patents
Box Patent Application
Washington, DC 20231

Sir:

This is a request for filing a

☒ Continuation

☐ Divisional

application under 37 CFR § 1.53(b), of pending above-identified prior application Serial No. 08/779,189 filed January 6, 1997.

CERTIFICATE OF MAILING BY "EXPRESS MAIL" UNDER 37 CFR 1.10

I hereby certify that this paper or fee is being deposited with the United States Postal Service on this date May 21, 2001 in an envelope as "Express Mail Post Office to Addressee" service under 37 CFR 1.10, "Express Mail" mailing label number EL153422533US addressed to the: Commissioner of Patents and Trademarks, Washington, D.C. 20231.

Curt Hoffman

(Typed or printed name of person mailing paper)

[Signature]
(Signature of person mailing paper)

1. Copy of Prior Application as Filed Which is Attached

[X] I hereby verify that the attached papers are a true copy of what is shown in my records to be the above identified prior application as filed, including the oath or declaration originally filed (37 CFR 1.53(b)). The copy of the papers of the prior application that are attached are as follows:

- [X] 36 page(s) of specification
- [X] 2 page(s) of claims
- [X] 1 pages(s) of abstract
- [X] 13 pages(s) of drawing
- [] pages(s) of declaration and power of attorney
- [] the amendment referred to in the declaration filed to complete the prior application. I hereby state, in accordance with the requirements of 37 CFR 1.60(b), that this amendment did not introduce new matter therein.

2. Amendments

- [] Cancel in this application original claims of the prior application before calculating the filing fee.
- [] A preliminary amendment is enclosed. (Claims added by this amendment have been properly numbered consecutively beginning with the number next following the highest numbered **original** claim in the prior application.)

3. Petition for Suspension of Prosecution for the Time Necessary to File an Amendment.

- [] There is provided herewith a Petition for Suspension of Prosecution for the Time Necessary to File an Amendment (New Application Filed Concurrently).

4. Information Disclosure Statement

- [] An information disclosure statement is submitted herewith.

5. [] A Letter Under 37 C.F.R. §1.821(e) concerning the Sequence Listing.

6. Fee Calculation (37 CFR § 1.16)

The filing fee has been calculated as shown below:

OTHER THAN A
(Col. 1) (Col. 2) SMALL ENTITY SMALL ENTITY

FOR:	NO. FILED	NO. EXTRA	RATE	FEE	OR	RATE	FEE
BASIC FEE				\$355	OR		
TOTAL CLAIMS	14-20	0	x \$9 =	\$	OR	x \$18 =	\$ 0
INDEP. CLAIMS	10-3	7	x \$40 =	\$280	OR	x \$80 =	\$ 0
MULTIPLE DEPENDENT CLAIM PRESENTED			\$135	\$	OR	\$270	\$ 0
Surcharge for late filing of basic filing fee and oath or declaration			\$65	\$	OR	\$130	\$ 0
			TOTAL	\$ 635	OR	TOTAL	\$

7. Small Entity Status

A verified statement that this filing is by a small entity:

☐ is attached.

☒ has been filed in the parent application and such status is still proper and desired (37 CFR §1.28(a)).

☐ other than a small entity.

8. Drawings

☐ Transfer the drawings from the prior application to this application and, subject to item 17 below, abandon said prior application as of the filing date accorded this application. A duplicate copy of this request is enclosed for filing in the prior application file.

☐ Transfer the following sheet(s) of drawing from the prior application to this application ____.

☐ A **copy** of the amendment canceling these sheets of drawing in the prior application is attached.

☐ New drawings are enclosed
☐ formal
☐ informal

9. Priority-35 U.S.C. § 119

☐ Priority of application serial no. 0 / _____ filed on _____ in _____
_____ is claimed under 35 U.S.C. § 119.

☐ The certified copy has been filed in prior U.S. application serial
no. 0 / , on _____.

☐ The certified copy will follow.

10. Relate Back-35 U.S.C. § 120

☒ Amend the specification by inserting before the first line the sentence:

"This is a

☒ continuation

☐ divisional

of copending application(s)

☒ Serial number 08/779,189 filed January 6, 1997

☐ International Application _____, filed and which designated the U.S."

11. Inventorship Statement

(a) With respect to the prior copending U.S. application from which this application claims benefit under 35 U.S.C. § 120 the inventor(s) in this application is (are):

☒ the same

☐ less than those named in the prior application and
it is requested that the following inventor(s) identified
for the prior application be deleted:

_____ (Type name of inventor to be deleted)

_____ (Type name of inventor to be deleted)

(b) The inventorship for all the claims in this application is:

☒ the same

☐ not the same, and an explanation, including the ownership of the various claims at the time the last claimed invention was made, is submitted.

12. Assignment

☒ The prior application is assigned of record to
Hadasit Medical Research Services and Development, Ltd.

☐ an assignment of the invention to

_____ is attached.

☐ A separate "ASSIGNMENT COVER LETTER ACCOMPANYING NEW PATENT APPLICATION" is also attached.

13. Fee for Petition under 37 CFR 1.137(b):

X Small entity - petition fee of \$620.00 (37 CFR 1.1 7(m)) included herewith in the Applicant's response transmittal letter.

14. Fee Payment Being Made At This Time

☐ Not Enclosed

☐ No filing fee is submitted.

☒ Enclosed

<input checked="" type="checkbox"/> basic filing fee	\$ <u>635</u>
<input checked="" type="checkbox"/> Petition Fee	\$ <u>620</u>
<input type="checkbox"/> processing and retention fee	\$ _____

TOTAL FEES ENCLOSED \$ 1255

15. Method of Payment of Fees

☐ enclosed is a check in the amount of \$ _____

☒ charge Account No. 09-0071 in the amount of \$ 1255. A duplicate of this transmittal letter is attached.

15. Authorization to Charge Additional Fees

☒ The Commissioner is hereby authorized to charge payment of the following fees during the pendency of this application or credit any overpayment to Deposit Account No. 09-0071. A duplicate copy of this sheet is enclosed.

☒ Any additional filing fees required under 37 CFR 1.16.

☒ Any patent application processing fees under 37 CFR 1.17.

☒ The issue fee set in 37 CFR 1.18 at or before mailing of a Notice of Allowance, pursuant to 37 CFR 1.311(b).

☒ Any filing fees under 37 CFR 1.16 for presentation of extra claims.

16. Declaration and Power of Attorney

☒ The power of attorney in the prior application is to Thomas C. Gallagher, Reg. No. 37,066

☒ The power appears in the original papers in the prior application.

☐ Since the Declaration and Power of Attorney does not appear in the original papers, a copy of the Declaration and Power of Attorney in the prior application is enclosed.

☐ A new power has been executed and is attached.

☒ Address all future communications to

Thomas C. Gallagher
Reg. No. 37,066

ImClone Systems Incorporated
180 Varick Street, 7th Floor
New York, N.Y. 10014
(212) 645-1405

17. Maintenance of Copendency of Prior Application

EXTENSION OF TIME

The proceedings herein are for a patent application and the provisions of 37 CFR 1.136 apply.*

(a) ___ Applicant petitions for an extension of time under 37 CFR 1.136 (fees: 3 CFR 1.17(a)-(d)) in connection with prior pending application Serial No. ___, for the total number of months checked below:

<u>Extension (months)</u>	<u>Fee for other than small entity</u>	<u>Fee for small entity</u>
___ one month	\$110.00	\$55.00
___ two months	\$390.00	\$195.00
___ three months	\$890.00	\$445.00
___ four months	\$1,390.00	\$695.00

If an additional extension of time is required please consider this a petition therefor.

(check and complete the next item, if applicable)

(b) ___ An extension for _____ months has already been secured and the fee paid therefor of \$___ is deducted from the total fee due for the total months of extension now requested.

(c) ___ Extension fee due with this request (a-b) \$

OR

(d) X Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

*Extension of Time in Patent Cases (Supplement Amendments): If a timely and complete response has been filed after a Non-Final Office Action, an extension of time is not required to permit filing and/or entry of an additional amendment after expiration of the shortened statutory period.

If a timely response has been filed after a Final Office Action, an extension of time is required to permit filing and/or entry of a Notice of Appeal or filing and/or entry of an additional amendment after expiration of the shortened statutory period unless the timely-filed response placed the application in condition for allowance. Of course, if a Notice of Appeal has been filed within the shortened statutory period, the period has ceased to run." Notice of December 10, 1985 (1061 O.G.35).

☐ A petition, fee and response has been filed to extend term in the pending prior application until _____

☐ A **copy** of the petition for extension of time in the prior application is attached.

18. Abandonment of Prior Application

☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application copending with said prior application.

19. Notification in Parent Application of the Filing of this Continuation Application

☐ A notification of the filing of this continuation is being filed in the parent application from which this application claims priority under 35 U.S.C. § 120.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,



Thomas C. Gallagher
Reg. No. 37,066

ImClone Systems Incorporated
180 Varick Street, 7th Floor
New York, N.Y. 10014
(212) 645-1405

May 21, 2001



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**EXPRESS MAIL
CERTIFICATE OF MAILING
FOR ABOVE-IDENTIFIED APPLICATION**

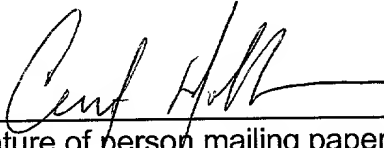
"Express Mail" mailing label number: EL153422533US

Date of Deposit: May 21, 2001

I hereby certify that the documents enclosed herewith are deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. §1.10 on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

Curt Hoffman

Printed Name of person mailing paper



Signature of person mailing paper